

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALLEN KIRK WARE,

Petitioner,

No. 2:98-cv-0752 GEB JFM (HC)

vs.

CALIFORNIA BOARD OF PRISON
TERMS, et al.,

Respondents.

FINDINGS & RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, has filed a document styled as a motion to reopen this action and “decide previous unidentified inherent legal claims.”

Petitioner’s application for writ of habeas corpus challenging decisions by the California Board of Prison Terms (now known as the California Board of Parole Hearings) was denied on the merits on August 24, 1999, and the judgment entered in this action was affirmed by the United States Court of Appeals for the Ninth Circuit on May 22, 2001. To the extent that petitioner challenges specific parole decisions that have been made since the petition in this case was denied, he must file, as appropriate, new habeas corpus action. To the extent that petitioner’s motion might be construed as an application for leave to proceed with a second or successive petition, this court is without authority to grant such a motion. See 28 U.S.C. § 2244(b)(3) (setting forth requirements for seeking leave in the court of appeals for order

1 authorizing district court to consider second or successive application.) In either event, the
2 motion at bar should be denied.

3 In accordance with the above, IT IS HEREBY RECOMMENDED that
4 petitioner's March 7, 2012 motion for an order to reopen this action be denied.

5 These findings and recommendations are submitted to the United States District
6 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
7 days after being served with these findings and recommendations, any party may file written
8 objections with the court and serve a copy on all parties. Such a document should be captioned
9 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
10 objections shall be filed and served within fourteen days after service of the objections. The
11 parties are advised that failure to file objections within the specified time may waive the right to
12 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

13 DATED: May 24, 2012.

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16 UNITED STATES MAGISTRATE JUDGE

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